

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

KENDRA THIBAUT, *in her*  
*Capacity as* GUARDIAN of  
JHAMAL GONSALVES and  
TIA TRIBBLE, *in her Capacity as*  
GUARDIAN of JHAMAL GONSALVES

v.

C.A. No. 1:21-CV-00021-WES-LDA

HUGH T. CLEMENTS, JR.,  
*Individually and in his official capacity*  
*as Chief of Police of the Providence*  
*Police Department;*  
STEPHEN PARE, *Individually and in his*  
*official capacity as Commissioner of Public*  
*Safety for the City of Providence;*  
KYLE ENDRES, *Individually and in his*  
*Official Capacity as an Officer in the*  
*Providence Police Department;*  
BRAD McPARLIN, *Individually and in his*  
*Official Capacity as an Officer in the*  
*Providence Police Department;*  
THE CITY OF PROVIDENCE, *by and*  
*through its Treasurer,*  
JAMES J. LOMBARDI, III; and  
OFFICERS JOHN AND JANE  
DOES, ALIAS 1-10, *in their Individual*  
*and Official Capacities*

**MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR LEAVE TO**  
**AMEND THE AMENDED COMPLAINT**

Plaintiff Jhamal Gonsalves, by and through his Guardians Kendra Thibault and Tia Tribble, has moved this Court under Rule 15 of the Federal Rules of Civil Procedure for leave to amend the Amended Complaint. This action is one for damages under 42 U.S.C. § 1983 and this Court has subject matter diversity by virtue of 28 U.S.C. § 1331 under its federal question jurisdiction, as well as supplemental jurisdiction under 28 U.S.C. § 1367 over related state law claims that arise out of the events giving rise to the federal question jurisdiction. Defendants Hugh T. Clements, Jr., Steven Paré, and the City of Providence have filed a

Motion to Dismiss the claims advanced against them, which sound in theories of supervisory liability and municipal liability under 42 U.S.C. § 1983. As grounds therefore, the defendants assert that the factual averments in the Complaint fail to provide a sufficient factual basis to state a claim upon which relief can be granted.

The Plaintiff opposes this Rule 12 motion to dismiss on the merits, as the Amended Complaint adequately pleads facts that raise a plausible entitlement to relief. If the Court is inclined to grant the Motion to Dismiss, it should instead grant leave to amend the Amended Complaint in the form of the proposed Second Amended Complaint attached to this memorandum as Exhibit A. The arguments advanced by the defendants relate solely to the factual allegations in the Complaint, but do not and cannot argue that no set of facts exists under which the claims asserted can be stated. The events giving rise to this action occurred in October 2020, and are thus well within the governing statute of limitations.

Under Rule 15 of the Federal Rules of Civil Procedure, a party may amend its pleadings by leave of court, and the Court should “freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). Under this liberal standard for amendment, the Court should give leave for the Plaintiff to amend his Amended Complaint in the form attached, as the proposed Second Amended Complaint states additional fact allegations that should resolve any doubt about the sufficiency of the pleadings stating claims for supervisory and municipal liability in this action. The language to be added by the amendment is set forth in ***bolded italics***.

Wherefore the Plaintiff respectfully requests that this Motion for Leave to Amend the Amended Complaint be granted.

Plaintiff,  
By his attorneys,

/s/ Amato A. DeLuca  
Amato A. DeLuca (#0531)  
Matthew D. Provencher (#9497)  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the following document:

*Plaintiff's Memorandum in Support of Motion for Leave to Amend the Amended Complaint*

was filed through the ECF system and will be sent electronically to the registered participants identified on the Notice of Electronic Filing (NEF) on this 5th day of April 2021.

/s/ Amato A. DeLuca